IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WA.No. 826 of 2007()

AGAINST THE JUDGEMENT IN WPC.7958/2007 Dated 23/03/2007
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APPELLANTS/PETITIONERS:
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1. DR. M.I.GEORGEKUTTY, S/O.Y.IDICULA, AGED 55 YEARS, PRINCIPAL, ST.JOHN'S COLLEGE, ANCHAL, RESIDING AT MELLUTTU, KARICKOM, KOTTARAKKARA.

2. DR.V.T.SAMUEL, S/O.K.KOSHY, AGED 55 YEARS, READER, DEPT. OF ENGLISH, ST. JOHN'S COLLEGE, ANCHAL, RESIDING AT THEJUS, ALENCHERY, YEROOR P.O., ANCHAL.

3. REV. DR.SAMUEL KATTUKALLIL, S/O.LATE K.C.THOMAS, AGED 55 YEARS, PRINCIPAL, MAR IVANIOS COLLEGE, THIRUVANANTHAPURAM RESIDING AT BETHANY HILLS, NALANCHIRA.

4. DR. GEORGE ZACHARIA, S/O.LATE SRI ZACHARIAH ZACHARIAH, AGED 54 YEARS, READER, DEPT. OF ENGLISH, MAR IVANIOS COLLEGE, THIRUVANANTHAPURAM, RESIDING AT C.N.R.A. 158, BODHI, VATHALLOOR, CHTHODU, NALANCHIRA P.O. THIRUVANANTHAPURAM.

5. PROF. VARGHESE ZACHARIA S/O.LATE C.M.ZACHARIA AGED 55 YEARS, HEAD, DEPT. OF CHEMISTRY, MAR IVANIOS COLLEGE, THIRUVANANTHAPURAM, RESIDING AT PLACKYIL AG.R.A.-13, K.P.XVII/99,NALANCHIRA, THIRUVANANTHAPURAM - 695 015.

6. SUNNY MATHEW, S/O.C.K.MATHEW, AGED 55 YEARS, LECTURER SELECTION GRADE, DEPT. OF HISTORY, MAR IVANIOS COLLEGE, THIRUVANANTHAPURAM, RESIDING AT CHITTACKATTU HOUSE, B9, GREEN VALLEY NAGAR, NALANCHIRA P.O., TIRUVANANTHAPURAM-15.

7. REV. SR.ANNIEAMMA AUGUSTIN, D/O.LATE SRI AUGUSTIN, AGED 55 YEARS, LECTURER SELECTION GRADE, DEPT. OF HINDI, MAR IVANIOS COLLEGE, THIRUVANANTHAPURAM, RESIDING AT S.H.CONVENT, NALANCHIRA P.O., THIRUVANANTHAPURAM-15.

8. MRS. MARYKUTTY ABRAHAM, W/O.SRI ABRAHAM, AGED 55 YEARS, LECTURER SELECTION GRADE, DEPT. OF HINDI, MAR IVANIOS COLLEGE, THIRUVANANTHAPURAM, RESIDING AT S.H.HOSTER, NALANCHIRA.P.O., THIRUVANANTHAPURAM-15.

8. Y. GEORGE, S/O. YOHANNAN, AGED 55 YEARS,
LECTURER SELECTION GRADE, DEPT. OF PHYSICS,
MAR IVANIOS COLLEGE, THIRUVANANTHAPURAM.

BY ADV. SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW

RESPONDENTS/RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO GOVT., GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

2. THE PRINCIPAL SECRETARY TO GOVT., HIGHER EDUCATION DEPT., GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

3. THE EDUCATION SECRETARY, GOVT. OF INDIA, MINISTRY OF HUMAN RESOURCE DEPT., DEPT. OF SECONDARY AND HIGHER EDUCATION, 128 'C' WING, SHASTRI BHAVAN, NEW DELHI - 110 001.

4. UNIVERSITY OF KERALA, THIRUVANANTHAPURAM REPRESENTED BY ITS REGISTRAR.

5. THE UNIVERSITY GRANTS COMMISSION, BAHADURSHAH ZAFAR MARG, NEW DELHI 110 002 REPRESENTED BY ITS SECRETARY.

R1 TO R3 BY GOVT. PLEADER SRI SANDESH RAJA

R5 BY S.KRISHNAMOORTHY, SC FOR UGC.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 29/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC,JJ.

W.A.NO.826 OF 2007

Dated this the 29th day of March, 2007

JUDGMENT

Raman,J.

Appellants are aggrieved by the judgment of the learned Single Judge in W.P.(C).No.7958/2007. The contention raised by the appellants/petitioners before the learned Single Judge was that though the age of retirement as fixed in the statute is 55, they are entitled to continue beyond the age of 55, in view of the fact that the UGC norms evolved higher age of retirement. After referring to the relevant decision reported in **George v. State of Kerala (1992 (1) KLT 793),** the learned Single Judge held that the petitioners have not made out a case for interference in the matter and accordingly the writ petition was dismissed. True that there are some observations in the judgment which may perhaps an eye opener to the Government to consider the matter as to whether the age of retirement should be increased or not. But this Court cannot compel the Government in this regard as that may require amendment of the statutes. Even though it is contended by the appellants that they be permitted to continue in service without any remuneration until a final decision is taken by the Government,

we do not find it proper to give any such direction especially when no direction as such could be issued directly to the authorities to amend the law relating to the age of retirement. As the law stands, they are to retire on the attainment of the age of 55. To permit continuance beyond the age of retirement in our view is impermissible. The learned Single Judge in such circumstances only clarified that the dismissal of the writ petition will not stand in the way of the Government revisiting the issue of retirement age and taking such decision as it considers appropriate.

2. We find no merit in this appeal. Accordingly the same is dismissed. However, we make it clear that the retirement of the petitioners on attainment of the age of superannuation as fixed in the statute will not take away their right if any, based on any amendment that might be brought out by the Government, unless the amendment itself is prospective.

P.R.RAMAN,
Judge.

ANTONY DOMINIC,
Judge.

kcv.